

Report to Interim Water Policy Committee

By

The Clark Fork River Basin Task Force
September 13, 2007

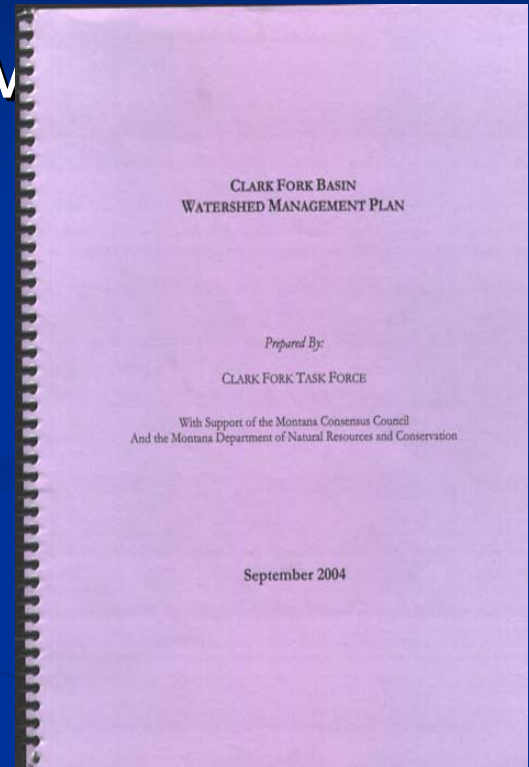
Clark Fork Task Force

- Created in 2001 pursuant to a state statute (85-2-350).
- Mandate - Prepare a water management plan for the Clark Fork River basin that identifies options to protect the security of water rights and provide for the orderly development and conservation of water in the future.

Clark Fork Basin Watershed Management Plan

- Clark Fork Basin Watershed Management Plan

- Adopted September 04
- Largely adopted into State Water Plan January 05



Key Plan Findings

- Basin faces a water supply challenge.
- No water reservation in the basin setting aside water for future use.
- Salish and Kootenai tribal rights are the earliest and potentially most comprehensive and restrictive of any water rights in the basin.
- In many of the sub-basins, such as the Upper Clark Fork and the Bitterroot, it is the early irrigation rights that generally control the river.
- Lower basin hydropower water rights are not filled most of the time.

Key Plan Findings Continued

- Except during periods when the hydropower rights are filled, it is unlikely that surface water and ground water connected to surface water is legally available in the basin for future appropriation.
- Water use based on a water right junior to the hydropower rights are at risk much of the time.
- Ground water is growing in importance as a source of water supply in the basin.
- Acquiring more ground water data is crucial to future water management.

DNRC Thompson River Lumber Water Right Decision

- DNRC's December 2006, denial of a permit for new surface water right for Thompson River confirms Plan finding about the absence of legally availability water in basin.
- Technically the entire basin is not closed, but DNRC has said that applicants face a high hurdle to meet the burden of proving the legal availability of water and that the existing hydropower water rights will not be adversely affected.

Plan Recommendations

- The State of Montana should seek a block of water in Hungry Horse Reservoir that it might lease to basin water users to support new uses and to protect junior users against a water rights call by hydropower utilities.
- The State should open discussions with the USBOR to determine the availability and cost of temporary and long-term contracting options, and to determine a quantity of firm storage available from Hungry Horse Reservoir for consumptive water use in Montana.

2005 Legislative Actions

- Passed HJ 3 urging DNRC to enter into negotiations with the US Bureau of Reclamation to determine the availability and cost of water stored behind Hungry Horse Dam for which the State of Montana might contract to support existing water use and future water development in the Clark Fork River basin.

2007 Legislative Actions

- SB 376 revised state water marketing law to:
 - Remove restrictions on the state's ability to contract for water in federal reservoirs; and
 - Increase the maximum of water that the state can lease for beneficial uses in Montana from federal reservoirs from 50,000 to 1 million acre-feet.
- Appropriated \$260,000 to pay for the BOR's first contracting step, reallocating Hungry Horse project costs to three new water uses, municipal, industrial, and irrigation, in addition to the two existing purposes, hydropower and flood control.

Current Hungry Horse Actions

- DNRC is presently determining how much water the state should request from BOR to meet future basin needs.
- DNRC has also been discussing the contracting process with BOR and considering how to convince it to make necessary studies a priority.

Meanwhile Other States are Not Waiting

- In February 2006, Washington passed legislation to develop up to 1 million acre-feet of new water supplies in the Columbia basin for both consumptive and instream uses.
- The 2007 Oregon legislature passed a bill directing the Oregon Water Resources Department to issue permits to appropriate up to 200,000 acre-feet per year of water from the Upper Columbia River for use in Columbia Basin for use in lieu of ground water to recharge or replenish ground water in critical ground water areas or to provide additional water for use by municipal corporation.

Meanwhile Other States are Not Waiting

- It is possible that this additional water development in Washington and Oregon may come at the expense of Montana water uses provided by Hungry Horse and Libby Dams.

Water Supply and Growth Conference

- The Task Force is planning a conference for March 2008 to explore issues surrounding the basin's water supply and growth.